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BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation	}	NO. D-2019 STIPULATION, DECISION, AND ORDER
Against:		
JEROME J. LUBIN, M.D.,		
Respondent.		

IT IS HEREBY STIPULATED by the parties to the above
entitled matter that the following is true:

1. Respondent Jerome J. Lubin, M.D. (hereinafter
"respondent") was heretofore issued a physician's and surgeon's
certificate under the laws of the State of California, and that
at all times herein mentioned, said certificate was, and now is,
in full force and effect.

2. On or about June 6, 1977, an accusation bearing
number D-2019 was filed by Joseph P. Cosentino, M.D., acting
executive director of the Board of Medical Quality Assurance of
the State of California, in his official capacity as such.

1 Said accusation listed causes for disciplinary action against
2 respondent, and said accusation is incorporated herein by
3 reference as though fully set forth at this point. Said
4 respondent was duly and properly served with accusation
5 number D-2019 by certified mail and said respondent filed a
6 timely notice of defense requesting a hearing on the charges
7 contained in the accusation.

8 3. Respondent has retained as his counsel Brian H.
9 Burke, Esq., of the law offices of Westwick and Collison.
10 Respondent has fully discussed with his counsel the charges
11 and allegations of violations of the California Business and
12 Professions Code alleged in accusation number D-2019 and has
13 been fully advised of his rights under the Administrative
14 Procedure Act of the State of California, including his rights
15 to a formal hearing and opportunity to defend against the charges
16 contained therein, and reconsideration and appeal of any adverse
17 decision that might be rendered following said hearing. Said
18 respondent knowingly and intelligently waives his rights to a
19 hearing, reconsideration, appeal, and to any and all other
20 rights which may be accorded him pursuant to the Administrative
21 Procedure Act of the charges contained in accusation number
22 D-2019 subject, however, to the provisions of paragraph 7
23 herein.

24 4. At all times herein mentioned, Quaalude, the brand
25 name for Methaqualone, was a dangerous drug within the meaning
26 of section 4211 of the Business and Professions Code, and a
27 controlled substance within the meaning of section 11056

1 (Schedule III) of the Health and Safety Code; Doriden, the brand
2 name for Glutethimide, was a dangerous drug within the meaning
3 of section 4211 of the Business and Professions Code and a
4 controlled substance within the meaning of section 11056
5 (Schedule III) of the Health and Safety Code; Dexedrine, the
6 brand name for Dextroamphetamine Sulfate, was a dangerous drug
7 within the meaning of section 4211 of the Business and Professions
8 Code and a controlled substance within the meaning of section
9 11055 (Schedule II) of the Health and Safety Code; Ritalin, the
10 brand name for Methylphenidate Hydrochloride, was a dangerous
11 drug within the meaning of section 4211 of the Business and
12 Professions Code and a controlled substance within the meaning
13 of section 11055 (Schedule II) of the Health and Safety Code;
14 Seconal, the brand name for Secobarbital, was a dangerous drug
15 within the meaning of section 4211 of the Business and Professions
16 Code and a controlled substance within the meaning of
17 section 11056 (Schedule III) of the Health and Safety Code;
18 Biphetamine, the brand name for a combination of Amphetamine
19 and Dextroamphetamine, was a dangerous drug within the meaning
20 of section 4211 of the Business and Professions Code and a
21 controlled substance within the meaning of section 11055
22 (Schedule II) of the Health and Safety Code; Empirin with
23 Codeine was a dangerous drug within the meaning of section 4211
24 of the Business and Professions Code and a controlled substance
25 within the meaning of section 11056 (Schedule III) of the
26 Health and Safety Code.

27 /

1 5. A. On or about November 15, 1976, respondent,
2 at his office in Santa Maria, California, prescribed
3 50 Quaalude, 300 mg., for a Michael Richardson without
4 a good faith prior examination and medical indication
5 therefor. Respondent received \$35 for this office
6 visit.

7 B. On or about November 16, 1976, respondent,
8 at his office in Santa Maria, California, prescribed
9 30 Doriden, .5 mg., and 30 Dexedrine, 50 mg., for a
10 R [REDACTED] P [REDACTED] without a good faith prior examination
11 and medical indication therefor. Respondent received
12 \$55 for this office visit.

13 C. On or about December 10, 1976, respondent,
14 at his office in Santa Maria, California, prescribed
15 50 Quaalude, 300 mg., and 60 Ritalin, 20 mg., for
16 M [REDACTED] R [REDACTED] without a good faith prior
17 examination and medical indication therefor.
18 Respondent received \$35 for this office visit.

19 D. On or about December 14, 1976, respondent,
20 at his office in Santa Maria, California, prescribed
21 30 Dexedrine, 15 mg., and 30 Doriden, .5 mg., for
22 R [REDACTED] P [REDACTED] without a good faith prior examination
23 and medical indication therefor. Respondent
24 received \$55 for this office visit.

25 E. On or about December 14, 1976, respondent,
26 at his office in Santa Maria, California, prescribed
27 30 Ritalin, 20 mg., and 30 Seconal, 100 mg., for
28 J [REDACTED] P [REDACTED] without a good faith prior examination

1 and medical indication therefor. Respondent received
2 \$55 for this office visit.

3 F. On or about December 22, 1976, respondent,
4 at his office in Santa Maria, California, prescribed
5 50 Quaalude, 30 mg., for M [REDACTED] R [REDACTED] without a
6 good faith prior examination and medical indication
7 therefor. Respondent received \$35 for this office visit.

8 G. On or about January 12, 1977, respondent,
9 at his office in Santa Maria, California, prescribed
10 30 Ritalin, 20 mg., and 30 Seconal, 100 mg., for
11 J [REDACTED] P [REDACTED] without a good faith prior examination
12 and medical indication therefor. Respondent received
13 \$35 for this office visit.

14 H. On or about January 12, 1977, respondent,
15 at his office in Santa Maria, California, prescribed
16 30 Ritalin, 20 mg., for S [REDACTED] n D [REDACTED] without a good
17 faith prior examination and medical indication
18 therefor. Respondent received \$35 for this office
19 visit.

20 I. On or about January 14, 1977, respondent,
21 at his office in Santa Maria, California, prescribed
22 30 Doriden, .5 mg., and 30 Dexedrine for R [REDACTED]
23 P [REDACTED] without a good faith prior examination and
24 medical indication therefor. Respondent received
25 \$30 for this office visit.

26 J. On or about January 28, 1977, respondent,
27 at his office office in Santa Maria, California,

1 prescribed 30 Quaalude, 300 mg., and 30 Biphcetamine,
2 20 mg., for M [REDACTED] C [REDACTED] without a good faith prior
3 examination and medical indication therefor.

4 Respondent received \$35 for this office visit.

5 K. On or about January 31, 1977, respondent,
6 at his office in Santa Maria, California, prescribed
7 50 Quaalude, 300 mg., and 30 Biphcetamine, 20 mg.,
8 for M [REDACTED] R [REDACTED] without a good faith prior
9 examination and medical indication therefor.

10 Respondent received \$35 for this office visit.

11 L. On or about March 4, 1977, respondent,
12 at his office in Santa Maria, California, prescribed
13 19 Empirin with Codeine number 3, 30 Biphcetamines,
14 20 mg., and 50 Quaalude, 30 mg., for M [REDACTED]
15 R [REDACTED] without a good faith prior examination
16 and medical indication therefor.

17 M. On or about March 4, 1977, respondent,
18 at his office in Santa Maria, California, prescribed
19 30 Quaalude, 30 mg., and 30 Biphcetamine, 20 mg.,
20 for M [REDACTED] C [REDACTED] without a good faith prior examination
21 and medical indication therefor.

22 N. Each prescription for dangerous drugs
23 written by respondent set forth in paragraphs A
24 through M hereinabove was issued without a good
25 faith prior examination and medical indication
26 therefor and constitutes unprofessional conduct.

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1 O. Each prescription for controlled
2 substances written by respondent set forth in
3 paragraphs A through M hereinabove was issued for
4 a person who was not under respondent's treatment
5 for a pathology or condition.

6 6. Pursuant to the facts admitted in paragraphs 5A
7 through 50, inclusive, respondent admits that his physician's
8 and surgeon's certificate is subject to disciplinary action
9 pursuant to sections 2360 and 2361 of the Business and
10 Professions Code in that he has violated section 2399.5 of the
11 Business and Professions Code and section 2391.5 of said code
12 in conjunction with section 11154 of the Health and Safety Code.

13 7. In the event that this stipulation, decision
14 and order is not accepted and adopted by the Division of Medical
15 Quality of the Board of Medical Quality Assurance of the State
16 of California, the admissions and characterizations of law and
17 fact made by all parties herein shall be null, void, and
18 inadmissible in any proceeding involving the parties to it.

19 WHEREFORE, it is stipulated that the Division of
20 Medical Quality of the Board of Medical Quality Assurance may
21 issue the following order:

22 I. The physician's and surgeon's certificate issued
23 to J. L. [REDACTED] is hereby revoked, provided however that
24 said revocation is stayed upon the following terms and conditions.
25 Upon the effective date of this decision, respondent's physician's
26 and surgeons certificate shall be suspended. Said certificate
27 shall remain suspended until respondent satisfies the following
28 conditions precedent:

1 A. No later than the effective date of this decision,
2 respondent shall surrender his physician's and surgeon's
3 certificate and shall not practice medicine subject to the
4 following conditions:

5 (1) Within 60 days from the effective
6 date of this decision, respondent, if he so re-
7 quests, will be given an oral and clinical examina-
8 tion in his specialty of psychiatry by the Division
9 of Medical Quality or its designees. If respondent
10 passes said examination, the revocation of his
11 certificate shall remain stayed subject to the condi-
12 tions in paragraph II hereinbelow.

13 (2) If respondent does not pass the
14 first examination, he will be entitled to two re-
15 examinations within one year from the effective
16 date of this decision. If he passes either of the
17 reexaminations, the revocation of his certificate
18 shall be stayed subject to the conditions in paragraph
19 II hereinbelow.

20 (3) If within one year from the effective
21 date of this decision respondent fails to pass an oral
22 and clinical examination pursuant to the procedures
23 set forth in paragraph IA(1) and IA(2) hereinabove,
24 the stay of revocation shall be vacated and the
25 revocation of his physician's and surgeon's
26 certificate shall become final.

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1 B. Respondent shall surrender his federal
2 narcotics permit to the Drug Enforcement Agency no
3 later than the effective date of this decision.
4 Restoration of said permit shall be subject to the
5 conditions set forth in paragraph II hereinbelow.

6 II. If respondent passes one of the examinations as
7 described in paragraph I hereinabove, the revocation of his
8 certificate shall remain stayed and respondent shall be placed on
9 seven years' probation upon the following terms and conditions:

10 A. Respondent shall not reapply for his
11 federal narcotics permit within one year from the
12 effective date of this decision. After one year
13 from the effective date, respondent, prior to
14 seeking restoration of said narcotics permit, must
15 first petition the Division of Medical Quality for
16 permission to apply for restoration of said narcotics
17 permit. Only if the Division of Medical Quality
18 approves such restoration shall respondent reapply
19 for his narcotics permit. Restoration of said permit,
20 if allowed, will be subject to any conditions that
21 the Division of Medical Quality may elect to impose.

22 B. Respondent, within 90 days of the
23 effective date of this decision, shall meet with
24 a medical consultant of the Division of Medical
25 Quality. Respondent shall meet with said
26 consultant a maximum of four times a year.

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1 C. Respondent shall comply with the
2 probation surveillance program of the Division of
3 Medical Quality.

4 D. Respondent shall submit quarterly
5 affidavits to the Division of Medical Quality or
6 its designee stating whether respondent is in
7 compliance with all terms and conditions of
8 probation.

9 E. Throughout the period of probation,
10 respondent shall participate in a continuing
11 education program, which shall consist of a minimum
12 of 40 hours each year. Said program(s) shall be in
13 a category I medical education program, shall
14 commence no later than 90 days after he passes the
15 oral and clinical examination and must be approved
16 in advance by the Division of Medical Quality.

17 F. If during the period of probation
18 respondent resides or practices medicine outside
19 of California, the probation shall be tolled
20 during such periods.

21 G. Respondent shall obey all laws and
22 regulations pertaining to the practice of medicine.

23 H. Upon full compliance by respondent
24 with all the terms and conditions hereof and the
25 expiration of probation, the stay shall become
26 permanent, provided, however, that upon respondent's
27 violation or failure to comply with any of the terms

1 and conditions of this stay, the Division of Medical
2 Quality, after notice and opportunity to be heard
3 is given to said respondent, may in the exercise of
4 its discretion vacate the stay and reimpose the
5 revocation, or take such other action as it deems
6 appropriate.

7 EVELLE J. YOUNGER, Attorney General
8 STEVEN M. KAHN,
9 Deputy Attorney General

10 DATED: December 8, 1977.

11 Steven M. Kahn
12 STEVEN M. KAHN
13 Deputy Attorney General

14 Attorneys for Complainant

15 WESTWICK AND COLLISON

16 DATED: Dec 22, 1977.

17 Brian H. Burke
18 BRIAN H. BURKE, Esq.
19 Attorneys for Jerome V. Lubin

20 I HAVE READ the stipulation, decision, and order.
21 I understand I have the right to a hearing on the charges
22 contained in the accusation, the right to cross-examine
23 witnesses, and the right to introduce evidence in mitigation.
24 I have discussed the charges contained in the accusation with
25 my counsel and my rights to hearing and defense. I knowingly
26 and intelligently waive these rights and agree to be bound by
27 the terms of the stipulation, decision, and order.

28 DATED: 12. 22. 77.

Jerome V. Lubin
JEROME V. LUBIN, M.D.
Respondent

DECISION AND ORDER

The foregoing is adopted as the Decision of the
Division of Medical Quality of the Board of Medical Quality
Assurance in this matter and shall become effective on the
3rd day of APRIL, 1978.

IT IS SO ORDERED this 3rd day of MARCH, 1978.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA


MICHAEL CARELLA
Secretary-Treasurer

SMK:dt
12/8/77

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4 Telephone: (213) 736-2047

5 Attorneys for Complainant

6
7 BEFORE THE DIVISION OF MEDICAL QUALITY
8 BOARD OF MEDICAL QUALITY ASSURANCE
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA
11

12 In the Matter of the Accusation) NO. D-2019
13 Against:)
14 JEROME V. LUBIN, M.D.) ACCUSATION
License No. C-12719,)
15 Respondent.)
16

17 COMES NOW JOSEPH P. COSENTINO, M.D., the complainant
18 herein, and alleges as follows:

19 1. At the time of executing and filing the within
20 pleading, the complainant was, and now is, the Acting Executive
21 Director of the Board of Medical Quality Assurance of the State
22 of California (hereinafter the Board) and performs such action
23 in his official capacity as such and not otherwise.

24 2. At all times herein mentioned, respondent,
25 Jerome V. Lubin, M.D. (hereinafter the respondent) has been
26 licensed as a physician and surgeon in the State of California.

27 3. Pursuant to sections 2360 and 2361 of the Business
28 and Professions Code, the Division of Medical Quality of the
29 Board of Medical Quality Assurance shall take action against a
30 holder of a physician's and surgeon's certificate who is guilty
31 of unprofessional conduct.

1 4. At all times herein mentioned, section 2399.5 of
2 the Business and Professions Code provided that prescribing,
3 dispensing or furnishing dangerous drugs as defined in
4 section 4211 of the Business and Professions Code without a good
5 faith prior examination and medical indication therefor
6 constitutes unprofessional conduct.

7 5. At all times herein mentioned, Quaalude, the
8 brand name for methaqualone, was a dangerous drug within the
9 meaning of section 4211 of the Business and Professions Code,
10 and a controlled substance within the meaning of section 110056
11 (Schedule III) of the Health and Safety Code; Doriden, the brand
12 name for glutethimide was a dangerous drug within the meaning
13 of section 4211 of the Business and Professions Code and a
14 controlled substance within the meaning of section 11056
15 (Schedule III) of the Health and Safety Code; Dexedrine, the
16 brand name for dextroamphetamine sulfate, was a dangerous drug
17 within the meaning of section 4211 of the Business and Professions
18 Code and a controlled substance within the meaning of section
19 11055 (Schedule II) of the Health and Safety Code; Ritalin, the
20 brand name for methylphenidate hydrochloride was a dangerous
21 drug within the meaning of section 4211 of the Business and
22 Professions Code and a controlled substance within the meaning
23 of section 11055 (Schedule II) of the Health and Safety Code;
24 Seconal, the brand name for secobarbital, was a dangerous drug
25 within the meaning of section 4211 of the Business and Professions
26 Code and a controlled substance within the meaning of section
27 11056 (Schedule III) of the Health and Safety Code; Biphetamine,
28 the brand name for a combination of amphetamine and dextro-
29 amphetamine, was a dangerous drug within the meaning of
30 section 4211 of the Business and Professions Code and a controlled
31 substance within the meaning of section 11055 (Schedule II)

1 of the Health and Safety Code; Empirin with Codeine was a
2 dangerous drug within the meaning of section 4211 of the Business
3 and Professions Code and a controlled substance within the
4 meaning of section 11056 (Schedule III) of the Health and Safety
5 Code.

6 6. Respondent Jerome Lubin is subject to disciplinary
7 action pursuant to sections 2360 and 2361 of the Business and
8 Professions Code in that he is guilty of unprofessional conduct
9 within the meaning of section 2399.5 of the Business and
10 Professions Code as more particularly alleged hereinafter:

11 A. On or about November 15, 1976, a person
12 from the Bureau of Narcotic Enforcement using the
13 name M [REDACTED] R [REDACTED] went to respondent's office
14 in Santa Maria, and without a good faith prior
15 examination and medical indication therefor, respondent
16 prescribed 50 Quaalude, 300 mg. for said person.
17 Respondent received \$35 for this office visit.

18 B. On or about November 16, 1976, R [REDACTED]
19 P [REDACTED] went to respondent's office in Santa Maria,
20 and without a good faith prior examination and medical
21 indication therefor, respondent prescribed 30 Doriden
22 .5 mg., and 30 Dexedrine, 50 mg. for Mr. Park.
23 Respondent received \$55 for this office visit.

24 C. On or about December 10, 1976, the same
25 person described in subparagraph A hereinabove giving
26 the name M [REDACTED] R [REDACTED] went to respondent's office
27 in Santa Maria, and without a good faith prior examina-
28 tion and medical indication therefor, respondent
29 prescribed 50 Quaalude, 300 mg., and 60 Ritalin,
30 20 mg. for said person. Respondent received \$35
31 for this office visit.

1 D. On or about December 14, 1976, Ronald Park
2 went to respondent's office in Santa Maria, and without
3 a good faith prior examination and medical indication
4 therefor, respondent prescribed 30 Dexedrin, 15 mg.
5 and 30 Doriden, .5 mg. for Mr. P [REDACTED] Respondent
6 received \$55 for this office visit.

7 E. On or about December 14, 1976, a person
8 from the Department of Consumer Affairs giving the
9 name J [REDACTED] P [REDACTED] went to respondent's office in
10 Santa Maria, and without a good faith prior examination
11 and medical indication therefor, respondent prescribed
12 30 Ritalin, 20 mg. and 30 Seconal, 100 mg. for Mr. P [REDACTED]
13 Respondent received \$55 for this office visit.

14 F. On or about December 17, 1976, the same
15 person described in subparagraph A hereinabove giving
16 the name M [REDACTED] R [REDACTED] went to respondent's office
17 in Santa Maria, and on or about December 22, 1976,
18 without a good faith prior examination and medical
19 indication on either December 17, 1976, or December 22,
20 1976, respondent prescribed 50 Quaalude, 30 mg. for
21 this person. Respondent received \$35 for this office
22 visit.

23 G. On or about January 12, 1977, the person
24 described hereinabove in subparagraph E giving the
25 name J [REDACTED] P [REDACTED] went to respondent's office in
26 Santa Maria, and without a good faith prior examination
27 and medical indication therefor, respondent prescribed
28 30 Ritalin, 20 mg., and 30 Seconal, 100 mg. for said person.
29 Respondent received \$35 for this office visit.

30 H. On or about January 12, 1977, Sharon Dalton
31 went to respondent's office in Santa Maria, and without

1 a good faith prior examination and medical indication
2 therefor, respondent prescribed 30 Ritalin, 20 mg. for
3 Ms. D[REDACTED]. Respondent received \$35 for this office
4 visit.

5 I. On or about January 14, 1977, Ronald Park
6 went to respondent's office in Santa Maria, and without
7 a good faith prior examination or medical indication
8 therefor, respondent prescribed 30 Doriden .5 mg., and
9 30 Dexedrine for Mr. P[REDACTED]. Respondent received \$30
10 for this office visit.

11 J. On or about January 28, 1977, a person
12 from the Bureau of Narcotic Enforcement using the name
13 M[REDACTED] C[REDACTED] went to respondent's office in Santa Maria,
14 and without a good faith prior examination and medical
15 indication therefor, respondent prescribed 30 Quaalude,
16 300 mg., and 30 Biphedamine, 20 mg. for said person.
17 Respondent received \$35 for this office visit.

18 K. On or about January 31, 1977, the person
19 described in subparagraph A hereinabove giving the
20 name M[REDACTED] R[REDACTED] went to respondent's office in
21 Santa Maria, and without a good faith prior examination
22 and medical indication therefor, respondent prescribed
23 50 Quaalude, 300 mg., and 30 Biphedamine, 20 mg. for
24 said person. Respondent received \$35 for this office
25 visit.

26 L. On or about March 4, 1977, the person
27 described in subparagraph A hereinabove giving the name
28 M[REDACTED] R[REDACTED] went to respondent's office in
29 Santa Maria, and without a good faith prior examination
30 and medical indication therefor, respondent prescribed
31 19 Empirin with Codeine No. 3, 30 Biphedamines, 20 mg.,

1 and 50 Quaalude, 30 mg. for said person.

2 M. On or about March 4, 1977, the same
3 person described in paragraph J hereinabove using
4 the name M. C. [REDACTED] went to respondent's office in
5 Santa Maria, and without a good faith prior examina-
6 tion and medical indication therefor, respondent
7 prescribed 30 Quaalude, 30 mg., and 30 Biphedamine,
8 20 mg. for said person.

9 N. Each prescription for dangerous drugs
10 by respondent set forth in subparagraphs A through M,
11 hereinabove was without a good faith prior examination
12 and medical indication therefor and constitutes
13 unprofessional conduct.

14 7. At all times herein mentioned, section 2391.5 of
15 the Business and Professions Code provided, in part, that a
16 violation of any of the statutes or rules or regulations of the
17 State of California relating to narcotics or dangerous drugs
18 or controlled substances constitutes unprofessional conduct.

19 8. At all times herein mentioned, section 11154 of
20 the Health and Safety Code provided, in part, that except in the
21 regular practice of his profession, no person shall prescribe
22 a controlled substance to or for any person who is not under his
23 treatment for a pathology or condition other than addiction to a
24 controlled substance, except as provided in Division 10 of the
25 Health and Safety Code.

26 9. Respondent is subject to discipline pursuant to
27 sections 2360 and 2361 of the Business and Professions Code in
28 that he has violated statutes of the State of California
29 regulating narcotics, dangerous drugs, and controlled substances,
30 to wit, section 11154 of the Health and Safety Code, as more
31

1 particularly alleged hereinafter:

2 A. Subparagraphs 6A through 6M hereinabove
3 are incorporated herein by reference as though fully
4 set forth at this point.

5 B. That in each of the instances described in
6 paragraph 9A hereinabove, respondent prescribed
7 controlled substances for a person who was not under
8 his treatment for a pathology or condition.

9 10. At all times herein mentioned, section 2361(e) of
10 the Business and Professions Code provided that the commission
11 of any act involving dishonesty or corruption constitutes
12 grounds for disciplinary action.

13 11. Respondent is further subject to disciplinary action
14 pursuant to sections 2360 and 2361 of the Business and Professions
15 Code in that he has committed acts involving dishonesty or
16 corruption in violation of section 2361(e) of said Code as more
17 particularly alleged hereinafter:

18 A. Subparagraphs 6A through 6M hereinabove
19 are incorporated herein by reference as though fully
20 set forth at this point.

21 B. In each of the instances set forth in
22 subparagraph 11A hereinabove, respondent knew that the
23 persons requesting said drugs had no medical indication
24 or pathology which required such drugs and notwith-
25 standing this, respondent prescribed drugs as set forth
26 hereinabove and collected fees for such services. Such
27 conduct constitutes dishonesty and corruption.

28 12. Respondent is further subject to disciplinary
29 action pursuant to sections 2360 and 2361 of the Business and
30 Professions Code in that he has committed additional acts
31 involving moral turpitude, dishonesty or corruption in violation

1 of section 2361(e) of said Code as more particularly
2 alleged hereinafter:

3 A. During the period from on or about
4 November 1971 through on or about March 28, 1975,
5 respondent signed and consequently submitted to
6 California Blue Shield, the fiscal intermediary for
7 the California Medical Assistance Program (Medi-Cal),
8 claims requesting payment for treatment of
9 Williams Wells for the following dates: 11-4-71,
10 12-6-71, 1-14-72, 2-18-72, 3-17-72, 4-14-72, 5-10-72,
11 9-12-72, 10-10-72, 11-9-72, 12-11-72, 1-11-73, 2-12-73,
12 4-10-73, 5-15-73, 6-11-73, 7-10-73, 8-17-73, 9-18-73,
13 10-18-73, 3-11-74, 5-28-74, 6-25-74, 7-17-74, 8-20-74,
14 9-10-74, 10-11-74, 11-7-74, 12-5-74, 1-6-75, 2-6-75,
15 and 3-28-75.

16 B. For each claim submitted by respondent
17 for payment to California Blue Shield for the services
18 rendered for patient W [REDACTED] W [REDACTED] on the dates set
19 forth hereinabove, respondent answered "No" on said
20 claim to the question as to whether there was any
21 other group hospital or medical coverage covering said
22 patient and that said answer was certified by respondent
23 to be true, accurate and complete.

24 C. The statements made by respondent as to
25 the nonexistence of any other medical coverage for
26 patient W [REDACTED] W [REDACTED] in each of the above instances
27 were false, and respondent knew that such statements
28 were false, in that at or near the time he submitted
29 claims to California Blue Shield, he also submitted
30 bills for the same services to the Veteran's
31 Administration for patient W [REDACTED] W [REDACTED], and that

1 respondent received payments from both California
2 Blue Shield and the Veteran's Administration for the
3 treatment provided Mr. W [REDACTED]

4 D. That some of the claims or bills submitted
5 by respondent to the Veteran's Administration indicating
6 dates of service for patient W [REDACTED] were different from the
7 dates of service set forth in the claims submitted to
8 California Blue Shield as indicated hereinbelow:

9	<u>Date of Service</u> <u>California Blue Shield</u>	<u>Date of Service</u> <u>Veteran's Administration</u>
10		
11	6-25-74	6-26-74
12	7-17-74	7-17-74
13	- - -	7-23-74
14	10-11-74	10-10-74
15	- - -	1-1-75
16	1-6-75	1-6-75

17 E. That the dates of service indicated in
18 paragraph 11D hereinabove either to California Blue
19 Shield or to the Veteran's Administration were false,
20 in that within those months, respondent saw Mr. W [REDACTED]
21 only once per month.

22 F. Respondent's conduct in falsifying or
23 omitting information to California Blue Shield, in
24 billing twice for the same services rendered to
25 patient W [REDACTED] and for billing for dates in which no
26 services were rendered, constitutes moral turpitude,
27 dishonesty and corruption.

28 13. Respondent is further subject to disciplinary
29 action pursuant to sections 2360 and 2361 of the Business and
30 Professions Code in that he has further violated section 2361(e)
31 of said Code by committing acts constituting moral turpitude,

1 dishonesty or corruption, as more particularly alleged hereinafter:

2 A. On or about November 1, 1972, respondent
3 prepared and subsequently submitted a claim to
4 California Blue Shield indicating that on or about
5 October 26, 1972, he had rendered psychotherapy to
6 Sally Estrada for adjustment reaction of adolescence.

7 B. On or about November 1, 1972, respondent
8 prepared and subsequently submitted a claim to
9 California Blue Shield indicating that on or about
10 October 9, 1972, he had rendered psychotherapy to
11 R [REDACTED] E [REDACTED] for adjustment reaction of adolescence.

12 C. On or about November 1, 1972, respondent
13 prepared and subsequently submitted a claim to
14 California Blue Shield indicating that on or about
15 October 25, 1972, he had rendered psychotherapy to
16 R [REDACTED] E [REDACTED] for adjustment reaction of adolescence.

17 D. On or about November 1, 1972, respondent
18 prepared and subsequently submitted a claim to
19 California Blue Shield indicating that on or about
20 October 23, 1972, he had rendered psychotherapy to
21 C [REDACTED] E [REDACTED] for adjustment reaction of childhood.

22 E. On or about November 1, 1972, respondent
23 prepared and subsequently submitted a claim to
24 California Blue Shield indicating that on or about
25 October 26, 1972, he had rendered psychotherapy to
26 J [REDACTED] E [REDACTED] for anxiety reaction.

27 F. Each of the claims alleged in subparagraphs
28 13A through 13E hereinabove were false in that in or
29 about October 1972, respondent, on one day only, had
30 given flu vaccine to S [REDACTED] E [REDACTED], R [REDACTED] E [REDACTED]
31 R [REDACTED] E [REDACTED], C [REDACTED] E [REDACTED], and J [REDACTED] E [REDACTED]

1 and at no time did he perform any psychotherapy for
2 said persons.

3 14. At all times mentioned herein, section 2411 of the
4 Business and Professions Code provided that knowingly making or
5 signing any certificate or document directly or indirectly
6 related to the practice of medicine which falsely represents the
7 existence or nonexistence of a state of facts constitutes
8 unprofessional conduct.

9 15. Respondent is subject to discipline pursuant to
10 sections 2360 and 2361 of the Business and Professions Code in
11 that he is guilty of unprofessional conduct within the meaning
12 of section 2411 of said Code as more particularly alleged
13 hereinafter:

14 A. Subparagraphs 13A through 13E hereinabove
15 are incorporated herein by reference as though fully
16 set forth at this point.

17 B. The diagnoses set forth by respondent in
18 the claims to California Blue Shield for S [REDACTED] E [REDACTED]
19 J [REDACTED] E [REDACTED] C [REDACTED] E [REDACTED], R [REDACTED] E [REDACTED], and
20 R [REDACTED] E [REDACTED], and each of them, were totally false,
21 and that respondent signed and submitted said claims
22 to California Blue Shield knowing that these diagnoses
23 were false, as well as knowing that he had never
24 rendered such services.

25 WHEREFORE, Complainant prays that the Division of Medical
26 Quality Assurance hold a hearing on the matters alleged herein,
27 and following said hearing take such action as is provided in
28 section 2372 of the Business and Professions Code, and take such
29 other and further action as may be proper.

30 DATED: JUNE 6, 1977

Joseph P. Cosentino
JOSEPH P. COSENTINO, M.D.
Acting Executive Director
Board of Medical Quality Assurance
Complainant